

1 JUDGE GUERRA: He's never seen the document.
2 So I'm going to sustain the objection. I'll
3 allow some general questions, but as to specific
4 contents, he's never seen the document before.

5 BY MS. MARSH:

6 Q Mr. Meixner, if there was evidence that
7 suggested that if an order was processed manually
8 it was more likely to receive an 855 notification
9 after a 24-hour period than if it was processed
10 automatically, would that raise a concern to you
11 as to whether manual processing causes delays?

12 A Not necessarily, no.

13 Q And why is that?

14 A Because you'd have to know a lot more data
15 what caused -- there's a cause and effect
16 relationship between this, and it could be that
17 some of the orders that were processed manually
18 were because of problems in the order that was
19 submitted and that Ameritech was taking extra
20 steps to process. You just can't tell by looking
21 at percentages and data.

22 That's why this issue is so

1 difficult. You almost need to go back to the
2 service level agreements and just have a
3 commitment.

4 Q Isn't an 855 response issued by the system
5 before the processing itself upon receipt of the
6 order in the interface?

7 A Before the processing by the downstream
8 systems you mean?

9 Q Yes.

10 A I believe so.

11 Q So as it relates to 855 response time
12 only, if there was evidence that showed that an
13 order that was ultimately processed manually was
14 likely to receive an 855 response later than an
15 order that was processed automatically, would
16 that raise concerns to you as to whether manual
17 processing causes delays?

18 A No, for the same reason I said in the
19 prior question.

20 Q If there was evidence that showed that an
21 order that was rejected manually was likely to
22 take longer to reject than an order that was

1 rejected automatically, would that raise concerns
2 to you as whether manual processing causes
3 delays?

4 A Not necessarily, no.

5 (Whereupon, there was a
6 change in reporter.)
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1 MS. MARSH: Mr. Meixner, can I refer you to
2 schedule three of your testimony.

3 A. Okay.

4 Q. Now in connection with your capacity
5 analysis, the Anderson team did a capacity
6 calculation on the pre ordering system; is that
7 correct?

8 A. That's correct.

9 Q. Did the Anderson team also do a
10 capacity analysis of the ordering system?

11 A. Yes, but we didn't complete it for
12 inclusion in this testimony.

13 Q. Does Arthur Anderson currently have
14 any opinion as to the capacity of Ameritech's
15 ordering systems?

16 A. Yes.

17 Q. And what is your conclusion?

18 A. Well, based on the work that we were
19 able to complete subsequent to this filing during
20 the month of April, we were able to successfully
21 do capacity testing on the ordering system as well
22 as billing and usage ASRs and the repair and

1 maintenance.

2 Q. Have you produced the information that
3 supports that testing in this docket?

4 A. I don't believe we have.

5 MS. MARSH: I haven't seen it if you have.

6 MS. SUNDERLAND: Was it available in the
7 discovery stuff?

8 THE WITNESS: Some of it was just finished
9 up in the last few days. We can get it for you.

10 MS. MARSH: If they haven't produced it,
11 I'll be denied an opportunity to cross examine him
12 on that. I would move to strike his opinions
13 based on materials that they've completed but not
14 produced in this docket.

15 JUDGE GUERRA: Have these materials been
16 requested?

17 MS. MARSH: Yes. We have requested twice
18 all materials that were prepared, reviewed or
19 relied on by the Arthur Anderson team in
20 connection with their opinions in this docket.

21 MS. SUNDERLAND: Can I just check something
22 with my people.

1 JUDGE GUERRA: Do we have an answer?

2 MS. SUNDERLAND: It is my understanding and
3 I would be willing to, you know, undertake to
4 verify it overnight, that in response to AT&T's
5 fifth data request where they asked for all of the
6 materials that Anderson had produced subsequent to
7 the April 4th testimony that was delivered to them
8 on Friday, all of that, you know, the work papers
9 on that capacity testing was provided to them.

10 MS. MARSH: As it relates to the repair and
11 maintenance and billing capacity as well?

12 MS. SUNDERLAND: I would have to verify what
13 was in the box. It's certainly my understanding
14 that ordering was in there; and for the other two,
15 I just need to check.

16 MS. MARSH: Okay.

17 Q. Well, let me focus just on the
18 ordering interface for now.

19 Can you tell me what is Anderson's
20 conclusion as it relates to Ameritech's capacity
21 for the ordering interface?

22 A. Yes. That it exceeded the capacity

1 required for the fourth quarter of '97.

2 Q. And what was that number, do you
3 know? I think I have it here. Is that --

4 A. Thank you. Okay.

5 You said ordering but this is the
6 pre ordering. I'm not sure which one you want to
7 talk about.

8 Q. I want to talk about ordering. I
9 thought ordering was on that exhibit as well.

10 A. Well, monthly orders generating pre
11 orders. Okay.

12 Q. The way I read a line on that exhibit
13 that says orders per hour, but it's unclear to me
14 what the capacity conclusions are.

15 A. Okay. As far as ordering, the
16 required monthly volume was 239,000 orders per
17 month based on the forecasts we used, and that the
18 actual achieved was 368,000 orders per month.

19 Q. So it's Anderson Consulting's opinion
20 that the Ameritech interfaces currently have the
21 capacity, the ordering interfaces, have the
22 capacity for 368,000 orders a month?

1 A. That's correct.

2 Q. Now, you made some independent
3 assessments as to how long it would take on orders
4 that fell out to manual, how long it would take to
5 process those orders; is that correct?

6 A. Yeah. Now you're on the manual
7 capacity side, right?

8 Q. Yes.

9 And I believe it was your opinion
10 that it would take approximately nine minutes to
11 process a quote simple order that fell off to
12 manual; is that correct?

13 A. Let me just double check that on my
14 schedule.

15 9.3 for a simple order.

16 Q. And what was the basis for that
17 conclusion? What tasks did you assume would have
18 to be performed?

19 A. Basically these were to do whatever
20 needed to be on any type of a simple order that
21 fell out.

22 This was an average across all the

1 tasks that a service rep would have to perform.
2 So it would vary from order to order and that's
3 just an average.

4 Q. So on simple orders there weren't any
5 assumptions made about specific tasks that would
6 have to be performed?

7 A. No. Instead it was based on the
8 actual experience that the service reps were
9 taking. They added up the total time for, you
10 know, a hundred simple orders and divided then by
11 the -- by a hundred to get the average per order.
12 So some might have taken 5 minutes; some might
13 have taken 15.

14 Q. And in your assumption as to complex
15 orders was 47 minutes; is that correct?

16 A. Yes.

17 Q. Turning back to your Schedule 3 that I
18 was referring you to before.

19 On the repair and maintenance
20 functions, you indicate that Ameritech payphone
21 service is using the trouble report information
22 request; is that correct?

1 A. That's correct.

2 Q. Now, you have indicated that in
3 connection with various unbundled product groups.
4 Do you see that?

5 A. You mean are you still on repair and
6 maintenance?

7 Q. Yes, repair and maintenance Ameritech
8 payphone services use?

9 A. Yes.

10 Q. It's my understanding that Ameritech
11 payphone services does not purchase any unbundled
12 products.

13 Am I incorrect in that
14 understanding?

15 A. I'm not sure.

16 Q. Do you know what basis that you
17 concluded that Ameritech payphone service was
18 using repair and maintenance interface in
19 connection with unbundled products?

20 A. Yeah, one of the members of my team
21 concluded that and I can find out easily enough.

22 Q. Can you turn to your Schedule 4, sir?

1 A. Sure. Okay.

2 Q. Now, on the bottom of that schedule,
3 you listed a bunch of reject reasons by major
4 reason code. Is that correct?

5 A. That's correct.

6 Q. Can you tell me why in January and
7 February there were no rejects for Caller ID and a
8 hundred and eight rejects for that same issue in
9 March?

10 A. No. I read Mr. Connolly's testimony
11 and apparently there was some dispute about how
12 those things would be handled, but I don't know if
13 that accounted for it.

14 Q. So you don't know why there's that
15 kind of fluctuation as it relates to the rejection
16 reason for that particular reason?

17 A. No.

18 Q. Can you tell me why with the resaler
19 ID on CSR reject there were none in January and
20 February and there were 44 in March?

21 A. No, I can't.

22 Q. Does that fluctuation for that

1 particular reject reason cause you any concern as
2 to the stability of Ameritech's systems?

3 A. Not really.

4 I mean some of the orders go up and
5 some of the numbers go down.

6 And, you know, the rejection rate,
7 the percentage appears to be trending, you know,
8 downward, so hopefully -- you know, these things
9 are interesting because when you talk about
10 stability of systems, these aren't system
11 problems. These are business communication
12 problems between users and providers. So
13 hopefully what that indicates is that these things
14 are being communicated and resolved.

15 Q. You think that the reseller ID problem
16 is a systems communication problem between the
17 users and the providers?

18 A. I think for most of these they're
19 communications one. That particular one, are you
20 referring to the RSID on the CSR does not match?

21 Q. Yes.

22 A. That I believe would be an Ameritech

1 problem.

2 (Whereupon, AT&T Cross
3 Exhibit No. 21 was marked
4 for identification.)

5 MS. MARSH: Q. Let me hand you what I am
6 marking as Cross Exhibit No. 21. Can you identify
7 for me the AT&T Cross Exhibit No. 21 is?

8 A. Yes. That's our engagement letter
9 with Ameritech.

10 Q. Isn't it true in the first sentence of
11 that letter you indicate that Ameritech and
12 Anderson Consulting have an arrangement for
13 Anderson Consulting to provide assistance to
14 Ameritech in the filing of their application to
15 offer interLATA long distance communications
16 services?

17 A. Right.

18 Q. Isn't it true that the only way in
19 which Anderson Consulting could assist Ameritech
20 in that filing would be to provide them with an
21 opinion that the systems were operationally ready?

22 A. I wouldn't conclude that from reading

1 that.

2 That sentence was written just to
3 say that we were going to assist them in whatever
4 activities they were going to do this. At the
5 time when we started this, had no idea what the
6 end would look like.

7 Q. Can I refer you to Page 2, Paragraph
8 2.

9 Do you there indicate that the
10 final deliverable for the overall work effort is
11 an affidavit or written testimony to be used as
12 part of Ameritech's interLATA long distance
13 filing?

14 A. Yes.

15 Q. Isn't it true that the only way
16 Ameritech would use an affidavit provided by
17 Anderson Consulting would be that if that
18 affidavit concluded that the systems were
19 operationally ready?

20 MS. SUNDERLAND: I'll object to speculation
21 about what Ameritech would have done.

22 MS. MARSH: Q. Did you sign this letter,

1 Mr. Meixner?

2 A. Yes, I did.

3 Q. You signed it on behalf of Arthur
4 Anderson Consulting?

5 A. Uh-huh.

6 Q. When you indicated that the overall
7 work effort was to be used as part of Ameritech's
8 filing, what did you understand that to be?

9 A. That any type of supporting material
10 or documentation that we could produce that would
11 support their filing.

12 Q. As an expert who is going to render
13 Ameritech opinions did you believe that Ameritech
14 would use your opinions as part of its filing if
15 you concluded that the systems were not
16 operationally ready?

17 A. Good question.

18 MS. SUNDERLAND: Again, I'll object to
19 speculation.

20 JUDGE GUERRA: I'm going to sustain the
21 objection.

22 MS. MARSH: If I could just have a moment.

1 CROSS EXAMINATION

2 BY

3 MR. COHEN:

4 Q I don't believe in friendly cross. I
5 have a very specific question for you.

6 In your review of Ameritech's
7 pre-ordering OSS functions -- and I'm talking
8 about telephone number selection and due date
9 identification -- is there a system constraint
10 on the number of simultaneous transactions that
11 can occur in that context?

12 A It's my understanding that the AEMS
13 system, within the Ameritech gateway
14 environment, has a constraint of eight
15 simultaneous telephone number or due date
16 transactions being processed by the system at a
17 point in time.

18 Q And if at a particular point in time
19 there is more than eight requests for that
20 information, what would happen?

21 A The subsequent requests get into an
22 electronic queue, and they would get processed

1 as the earlier transactions are retired or
2 completed.

3 Q Okay.

4 A So it would back up in a fashion and
5 then get serially processed as they arrive,
6 "first in, first out" type of thing.

7 Q And if you were testing the
8 operational readiness of that type of system
9 with that type of constraint, what would you do
10 and why would you do it?

11 A Well, I would first of all make that
12 finding of what that processing constraint was
13 and then see how long it took for a
14 representative sample of transactions --
15 searching for due date, searching for telephone
16 number assignment -- to determine how quickly
17 the queue would build up and how quickly the
18 queue would get cleared in order to build a
19 predictability of a response time on an overall
20 basis for those kind of transactions.

21 It would be insufficient just to
22 look at the first ones and say that the first

1 eight got processed within a period of time.
2 Perhaps over a test hour you'd find whatever is
3 the volume of queued transactions, and you begin
4 to measure the least performance in order to
5 make a profile of what your expectations are for
6 throughput in consideration of that bottleneck.

7 MR. COHEN: Thank you. That's all I
8 have.

9 Thank you, Mr. Connolly.

10 Thank you.

11 JUDGE GUERRA: Any further cross?

12 Redirect?

13 MS. MARSH: If we could just take a
14 moment.

15 (Short break taken.)

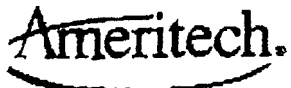
16 MS. MARSH: Very briefly.

17 REDIRECT EXAMINATION

18 BY

19 MS. MARSH:

20 Q Referring you, Mr. Connolly, to
21 Ameritech Illinois Cross Exhibit No. 5,
22 Ms. Sunderland referred to the rejection rates



Lynn Shapiro Starr
Executive Director
Federal Relations

April 21, 1997

Ms. Regina Keeney
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, NW
Room 500
Washington, DC 20005

Dear Ms. Keeney:

Your letter of April 14, 1997, to Gary Lytle directing Ameritech to provide a written description of any circumstance under which Ameritech is providing or has provided in-region interLATA service to business or residential customers has been forwarded to me for a response.¹

Section 271(f) permits Ameritech and its affiliates to engage in activity to the extent that such activity was authorized by the United States District Court for the District of Columbia pursuant to the AT&T consent decree ("MFJ"). Included in this category are activities for which Ameritech sought and received a court approved waiver. Attached is a list of waivers received by Ameritech, their date of entry, and the activities to which they relate.

In addition to the waived activities, Ameritech services its own internal business needs pursuant to a decision of the United States District Court for the District of Columbia concerning "official services."² The Official Services Order will be discussed in detail below. Ameritech relies, in part, on

¹ You have also asked for the legal basis upon which Ameritech relies in providing any such service. By way of clarification, we assume that the reference in your letter excluding services "subject to the explicit exceptions of section 271(f)" was intended to reference 271(g) of the Telecommunications Act ("Act") insofar as 271(g) contains an explicit list of permissible in-region incidental interLATA services and 271(f) contains no explicit exceptions. If this assumption is incorrect, then please advise.

² *United States v. Western Electric*, 569 F. Supp. 1057 (D. D.C. 1983)(Official Services Order).

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this ruling, to support the testing of its interLATA facilities and capabilities through what Ameritech refers to as the "Friendly User Trial."

In preparing to enter into the long distance business, Ameritech has started from scratch -- both the facilities-based portion of its network and the operational systems that support it are brand new. Ameritech has developed twenty-seven major systems that must all interface and interoperate together. These systems include ordering, provisioning, rating and billing systems -- systems which are the core of any business. It is the largest development and implementation of support systems in the chosen configuration in the country -- ever. It consists of five million lines of software code and 300 interfaces. It must be exhaustively tested, tuned, and refined before Ameritech enters the long distance market. Customers will demand and are entitled to nothing less.

With this in mind, Ameritech embarked on the "Friendly User Trial." Today, there are approximately 60 participants: 58 employees of Ameritech Communications, Inc. (Ameritech's section 272 subsidiary) and Dick Notebaert, the Chairman and Barry Allen, Executive Vice President, Consumer and Business Services Sector of Ameritech. Trial participants are not charged for the long distance service they use, but they do have the following responsibilities:

- Place orders for service using a pre-arranged variety of channels (telemarketing, service representatives), with a pre-arranged script and report on the quality of the interaction.
- Continue normal personal long distance habits.
- Report network difficulties.
- Place a variety of predesignated calls each week.
- Keep a log of all calls, recording the date, time, number called and any comments on the quality of the service rendered.
- Compare the logs with bills to validate bills for correctness.
- Meet once a month to provide feedback.

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Ameritech plans to expand the Friendly User Trial to include additional Ameritech employees for a period of approximately ninety days. The expansion of the trial is based on the recommendation of an outside consultant who recommends that all of the systems be tested for a peak load of twenty thousand orders per day. Ameritech cannot reach these testing levels without the Friendly User expansion.

Ameritech believes, for at least two reasons, that an expansion of the trial to additional Ameritech employees -- as well as the activities it has undertaken to date -- are fully authorized under the Communications Act of 1996 (the Act). First, the trial is not an interLATA service, as that term has been interpreted by the Commission. It is thus outside the reach of section 271(a). Second, even assuming, *arguendo*, that the trial is an interLATA service for purposes of section 271(a), it is permitted under section 271(f). These conclusions are discussed below.

Section 271(a) prohibits a BOC from providing in-region "interLATA services" prior to receiving section 271 authority. In the Non-Accounting Safeguards Order (CC Docket No. 96-149), the Commission concluded that the term "interLATA services" encompasses two categories of services: (1) interLATA telecommunications services; and (2) interLATA information services.³ Clearly, Ameritech's friendly user trial is not an interLATA information service. Thus, it is subject to section 271(a) only if it represents an interLATA telecommunications service. The Act defines a "telecommunications service," however, as "the offering of telecommunications for a fee directly to the public . . ." (emphasis added). Because Ameritech's friendly user trial is neither offered to the public nor offered for a fee, it is not a telecommunications service. It is thus outside the scope of section 271(a).⁴

³ Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended, CC Docket No. 96-149, FCC 96-489, released December 24, 1996, at para. 55.

⁴ Ameritech recognizes that the Act uses the term "telecommunications," rather than "telecommunications services" in defining "interLATA service." In the Non-Accounting Safeguards Order, the Commission explained this apparent anomaly. As the Commission found, by using the term "telecommunications," Congress included within the reach of section 271(a), not only interLATA telecommunications services, but also interLATA information services, which are provided on a bundled basis via telecommunications, but which would not have been subject to section 271 if that section applied only to telecommunications services. Thus, the use of the more generic term "telecommunications" in the Act.

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Even if Ameritech's friendly user trial were considered to be an interLATA service for purposes of section 271(a), it would, nevertheless, be an authorized activity by virtue of section 271(f). That section provides that, notwithstanding section 271(a), a Bell operating company or affiliate may engage in "previously authorized activities." Therefore, under that provision, a BOC or its affiliates may provide any interLATA service that they were authorized to provide as of the day of enactment of the 1996 Act.

Ameritech was authorized to conduct the Friendly User Trial as of the day of enactment of the 1996 Act because the trial constitutes an "official service." In a 1983 decision interpreting the scope of the decree, Judge Greene squarely held that "official services" are outside both the letter and the spirit of the decree and thus may be provided by the BOCs, regardless of whether they are intraLATA or interLATA in nature.⁵

Turning, first, to the spirit of the decree, the court concluded "it makes no sense to prohibit the Operating Companies from using, constructing, and operating on their own the facilities they need to conduct Official Services, whether they be intraLATA or interLATA in character[.]"⁶ The court based this conclusion on the costs and inefficiencies that would arise if the BOCs were prohibited from providing interLATA official services and its conclusion that the rationale underlying the decree "is wholly inapplicable to the provision of interLATA service by each Operating Company for its own internal, official purposes."⁷ Noting that the interLATA prohibition was designed to address two forms of anticompetitive behavior -- discrimination and cross-subsidization -- the court held "[n]either of these reasons is

⁵ The court described four categories of official services: (1) the operational support system network, which is a network of dedicated voice and data private lines used to monitor and control trunks and switches; (2) the information processing network, which is a network of dedicated lines linking information systems that are used to transmit data relating to trouble reports, service orders, trunk orders, and other business information; (3) service circuits used to receive repair calls and directory assistance calls from customers; and (4) voice communications used by the Operating Companies for hundreds of thousands of calls relating to their internal businesses. Ameritech's friendly user trial fits within the fourth category described by Judge Greene as the purpose of the trial is to test Ameritech's systems and procedures - a purpose which is uniquely related to Ameritech's internal businesses. (Emphasis added)

⁶ *Id.* at 1098.

⁷ *Id.* at 1100.

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implicated by the ownership and operation by an Operating Company of its own interLATA Official Service network."⁸

Having concluded that the spirit of the decree did not require a prohibition on the provision by the BOCs of interLATA official services, the court went on to find that the text of the decree likewise required no such result:

While the Operating Companies are prohibited by section II(D)(1) from providing "interexchange telecommunications services," section IV(P) defines "telecommunications services" as "offering for hire of telecommunications facilities." . . . Obviously, the Official Services are not "for hire."⁹

This reasoning compels the conclusion that Ameritech's friendly user trial is permissible under the Act. Insofar as the trial is not a commercial, for-profit undertaking, but a "give-away" of service as part of a test, Ameritech clearly has no incentive or ability to use the trial to anticompetitive ends. Moreover, as explained above, the failure to conduct this trial would unnecessarily and significantly impact Ameritech's ability to provide interLATA services upon receipt of section 271 authority. Not only would this deny the public the long-awaited benefit of additional competition in long-distance services, it would upset the competitive balance carefully crafted by Congress in the 1996 Act.

As the Commission is aware, there are a number of obligations and rights in the Act that are triggered by a BOC's receipt of interLATA authority. These include the obligation of a BOC to provide intraLATA toll dialing parity in certain circumstances, and the right of the largest interexchange carriers to jointly market interLATA and resold local exchange services. In tying these rights and obligations to BOC receipt of interLATA authority, Congress clearly contemplated and intended that a BOC would have the ability to provide service on receipt of such authority. Its purpose was to

⁸ *Id.* at note 187.

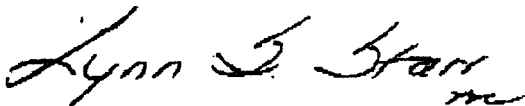
⁹ *Id.* at 1100 (emphasis supplied by court). The court went on to note that the decree similarly prohibits the BOCs from engaging in information services, but expressly permits them to engage in such services "for the management, control, or operation of a telecommunications system or the management of a telecommunications service." *Id.*

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create a level playing field. Construing the Act to preclude preauthorization testing of interLATA services would dramatically tilt this playing field. Absent such testing, Ameritech could not enter the long distance market upon its authorization to do so. That would not only be unfair to the BOCs, but contrary to the public's interest in fair and balanced rules of competition.

In short, there is no reason why Ameritech should not be permitted to conduct the necessary testing of its interLATA services prior to receiving section 271 authority. Ameritech believes that the trial falls outside the scope of section 271 insofar as the Commission has defined interLATA services as encompassing interLATA telecommunications service and interLATA information services. But even if that is not the case -- that is, even if the Commission finds that section 271(a) applies to activities that are not services -- the Commission must find that the trial is a previously authorized activity under section 271(f). A contrary conclusion would require a tortured reading of the 1996 Act -- a reading that would be especially inappropriate insofar as it would be directly contrary to the public interest.

Sincerely,

A handwritten signature in cursive script, reading "Lynn S. Starr". The signature is written in dark ink and includes a stylized flourish at the end.

Lynn S. Starr

Attachment

cc: David Ellen
Carol Matthey
Don Stockdale
Melissa Waksman